

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING A JUDGE NO. 02-144
JUDGE JOHN RENKE, III

SC03-1846

**RESPONSE TO REPLY OF THE FLORIDA JUDICIAL
QUALIFICATIONS COMMISSION**

COMES NOW, the Honorable John K. Renke, III, by and through his undersigned counsel and files this his Response to the Reply of the Judicial Qualifications Commission served on December 22, 2005 and states in support the following information:

1. In Judge Renke's Response to the Court's Order to Show Cause, he indicated his willingness to accept the Hearing Panel's recommendation to the Court regarding his sanction. Judge Renke primarily seeks a final resolution of these proceedings and is satisfied that the Hearing Panel's recommended sanction of a public reprimand and a fine is a fair and equitable result. As the Hearing Panel determined, Judge Renke has earned the reputation of an "excellent judge" and he is anxious to resume his duties unencumbered by further legal proceedings. Accordingly, Judge Renke does not wish to appeal the findings of fact at this point.

2. There has not been a final determination since the Court has not stated whether it will accept the Hearing Panel's recommended sanction. In the event the Court considers imposing a sanction greater than a public reprimand

based on the findings of fact set forth in the Hearing Panel's recommendation, Judge Renke seeks the opportunity to be heard regarding the findings.

3. Special Counsel contends that Judge Renke will waive his right to be heard regarding the factual findings unless he files an appeal before the Court has indicated whether it intends to accept or increase the recommended sanction. However, requiring Judge Renke to file an appeal prior to discovering whether the Court will accept the recommendation of a public reprimand is a waste of judicial time and resources, a strain on the JQC's already limited funding and a potentially unnecessary expense to be incurred by Judge Renke.

4. Although Special Counsel cites to Johnson v. State, 660 So. 2d 637 (Fla. 1995) (considering a direct appeal of a death penalty case) and Raskin v. Community Blood Centers of South Florida, Inc., 699 So. 2d 1014 (Fla. 4th DCA 1997)(addressing a motion for rehearing citing an available opinion not included in appellate briefs) in support of its argument, neither case addresses the rather unique procedural posture of a Judicial Qualifications Commission case in which the Hearing Panel's determination is merely a recommendation and not a final order.

WHEREFORE and by reason of the foregoing, Judge Renke respectfully requests this Court to permit the judge to be heard by affording him the opportunity to submit a brief addressing the factual findings and the appropriate

sanction in the event the Court rejects the Hearing Panel's recommended sanction.

Respectfully submitted,

SCOTT K. TOZIAN, ESQUIRE
Florida Bar Number 253510
GWENDOLYN H. HINKLE, ESQUIRE
Florida Bar Number 83062
SMITH, TOZIAN & HINKLE, P.A.
109 North Brush Street, Suite 200
Tampa, Florida 33602
813-273-0063
Attorneys for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of January, 2006, the original of the foregoing has been furnished by electronic transmission via e-file@flcourts.org and furnished by FedEx overnight delivery to: Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927; and true and correct copies have been furnished by U.S. Mail to Judge James R. Wolf, Chairman, Hearing Panel, Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; Marvin E. Barkin, Esquire, and Michael K. Green, Esquire, Special Counsel, 2700 Bank of America Plaza, 101 East Kennedy Boulevard, P. O. Box 1102, Tampa, Florida 33601-1102; Ms. Brooke S. Kennerly, Executive Director, Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; John R. Beranek, Esquire, Counsel to the Hearing Panel, P.O. Box 391, Tallahassee, Florida 32302; and Thomas C. MacDonald, Jr., Esquire, General Counsel, Florida Judicial Qualifications Commission, 1904 Holly Lane, Tampa, Florida 33629.

SCOTT K. TOZIAN, ESQUIRE